

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 18-cr-20151-16
Hon. Matthew F. Leitman

ANNINA BANKS,

Defendant.

/

**ORDER (1) DENYING DEFENDANT’S MOTION FOR COMPASSIONATE
RELEASE (ECF NO. 493) AND (2) TERMINATING AS MOOT
DEFENDANT’S MOTION FOR EXTENSION OF TIME (ECF No. 506)**

On March 21, 2019, the Court sentenced Defendant Annina Banks to a term of 19 months in prison following her plea-based conviction for conspiracy to commit wire fraud. (*See* Judgment, ECF No. 333, PageID.1204.) The Court subsequently extended to November 22, 2021, the date by which Banks had to report to begin serving her sentence. (*See* Order, ECF No. 476.) Banks has now moved for compassionate release under 18 U.S.C. § 3582(c)(1)(A)(i). (*See* Mot., ECF No. 493.) Banks seeks compassionate release based upon the risks she claims to face as a result of the COVID-19 pandemic and underlying medical conditions that place her at high risk from COVID-19.

Banks is not vaccinated against COVID-19. Banks says she cannot take a COVID-19 vaccine due to allergies and other medical conditions. After Banks filed her motion, the Court ordered her to supplement the motion with information concerning why her claimed medical conditions prevented her from taking the vaccine. (*See* Order, ECF No. 494.) The Court gave Banks until March 7, 2022, to provide the required information. (*See id.*) Banks provided some of the information and then asked the Court to give her an additional 30-45 days to file the rest of the information. (*See* Mot. for Extension of Time, ECF No. 506.) The extension requested by Banks has now passed, and Banks has not provided any additional information to the Court.

In addition to serving the sentence imposed by this Court, Banks is also serving a sentence imposed by Judge Judith Levy in Eastern District of Michigan Case Number 18-cr-20462. Banks also sought compassionate release from Judge Levy on the same grounds that she seeks compassionate release in this case. Like this Court, Judge Levy ordered Banks to provide information concerning her claimed inability to take the COVID-19 vaccine. Banks provided that information to Judge Levy. In fact, she appears to have provided Judge Levy with more information about her health conditions than she has provided to this Court.

On July 11, 2022, Judge Levy entered an Opinion and Order denying Banks' motion for compassionate release. (*See United States v. Banks*, E.D. Mich. Case No. 18-cr-20462, ECF No. 95.) In that Opinion and Order, Judge Levy carefully reviewed Banks' medical records and determined that Banks had not demonstrated a compelling reason for declining the COVID-19 vaccine. Among other things, Judge Levy explained in detail how Banks had failed to demonstrate that she is at serious risk for an allergic reaction from the COVID-19 vaccine. Judge Levy ultimately concluded that Banks had failed to show that she could not safely take the COVID-19 vaccine. Judge Levy then ruled that given the availability of the vaccine, the COVID-19 pandemic and Banks' claimed risks from COVID-19 did not constitute extraordinary and compelling circumstances warranting compassionate release. As Judge Levy explained, "a defendant's incarceration during the COVID-19 pandemic – when the defendant has access to the COVID-19 vaccine – does not present an extraordinary and compelling reason warranting a sentence reduction." (*Id.*, Page ID.453-454, quoting *United States v. Traylor*, 16 F.4th 485, 487 (6th Cir. 2021).)

Judge Levy's Opinion and Order is thorough and well-reasoned. The Court adopts Judge Levy's reasoning and analysis, in toto, as its own. Therefore, for the reasons explained in detail by Judge Levy, Banks' motion for compassionate release (ECF No. 493) is **DENIED**. In addition, Banks' motion for extension of time (ECF No. 506) is **TERMINATED AS MOOT**.

IT IS SO ORDERED.

s/Matthew F. Leitman

MATTHEW F. LEITMAN

UNITED STATES DISTRICT JUDGE

Dated: July 14, 2022

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on July 14, 2022, by electronic means and/or ordinary mail.

s/Holly A. Ryan

Case Manager

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